

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

VINCENT S. JOHNSON

§

VS.

§

CIVIL ACTION NO. 5:11cv134

MICHAEL CARVAJAL

§

MEMORANDUM ORDER ADOPTING THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION

Petitioner Vincent S. Johnson, an inmate confined at the Federal Correctional Institution in Texarkana, Texas, proceeding *pro se*, brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The Court referred this matter to the Honorable Caroline M. Craven, United States Magistrate Judge, at Texarkana, Texas, for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge recommends the above-styled petition be dismissed.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.

A civil rights action is the appropriate legal vehicle to attack the conditions of confinement. *See Preiser v. Rodriguez*, 411 U.S. 475, 484, 93 S.Ct. 1827, 1833, 36 L.Ed.2d 439 (1973); *Johnson v. Pfeiffer*, 821 F.2d 1120, 1123 (5th Cir. 1987). “[H]abeas is not available to review questions unrelated to the cause of detention. Its sole function is to grant relief from unlawful imprisonment or custody and it cannot be used properly for any other purpose.” *Pierre v. United States*, 525 F.2d 933, 935-36 (5th Cir. 1976); *see also Carter v. Sawyer*, 54 Fed. Appx. 406, 2002 WL 31688944 (5th Cir. 2002) (unpublished) (dismissal of § 2241 petition challenging the conditions of confinement).

As petitioner contests the alleged denial of adequate medical care, habeas is not the appropriate avenue for relief. Accordingly, the petition should be dismissed without prejudice.

ORDER

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

It is SO ORDERED.

SIGNED this 30th day of July, 2012.

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE